

NO. 24554

IN THE SUPREME COURT OF THE STATE OF HAWAII

EDWARD TOLLEFSEN, JR., Plaintiff-Appellant

vs.

REUBEN CARLOS, Defendant-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 95-3365)

ORDER DISMISSING APPEAL
(By: Moon, C.J., Levinson,
Nakayama, Ramil, and Acoba, JJ.)

Upon review of the statement supporting jurisdiction, the motion to dismiss appeal, the papers in support and in opposition and the record, it appears that the September 21, 1998 judgment on the claim against defendant Reuben Carlos was certified as a final judgment under HRCP 54(b). The judgment was appealable by notice of appeal filed within thirty days after the judgment was entered on September 21, 1998. See HRAP 4(a)(1); HRS § 602-11. The notice of appeal filed on September 18, 2001 is an untimely appeal of the September 21, 1998 judgment and we lack jurisdiction over this appeal. See Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (The failure of an appellant to file a timely notice of appeal in a civil matter is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate court in the exercise of judicial discretion). Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, January 2, 2002.